



**UNITED STATES OF AMERICA
FEDERAL LABOR RELATIONS AUTHORITY**

South Tower - Suite 1950
225 Peachtree Street
Atlanta, GA 30303

July 16, 2015

David Bray
142 Fletcher Ford Road
Fayetteville, GA 30215
dkb4030@att.net

TRANSMITTED BY E-MAIL and REGULAR MAIL

Re: Freedom of Information Act Request
Case No. AT-CO-15-0278

Dear Mr. Bray:

This responds to your request of July 15, 2015, whereby you requested certain information under the Freedom of Information Act (the FOIA), 5 U.S.C. § 552, as amended. Specifically, you have requested the case file for Case No. AT-CO-15-0278.

Based upon your request, the following documents may be disclosed under the Freedom of Information Act (the FOIA), 5 U.S.C. § 552, as amended, and copies of the documents are attached to this letter. The documents are described as follows:

- Opening Letter in Case Nos. AT-CO-15-0278 and AT-CO-15-0279 with attached charges (four pages)
- ULP data entry forms in Case No. AT-CO-15-0278 (five pages)
- Dismissal Letter in Case No. AT-CO-15-0278 (two pages)
- Article 18 of BOP-AFGE Collective Bargaining Agreement (seven pages)
- E-Mail of 1/27/15 from David Bray to John Nimene; Oliver Scott; Lashawn Sumpter (one page)
- E-Mail of 8/8/2014 from David Bray to Ramona Rembert (one page)
- E-Mail of 8/1/2014 from David Bray to Ramona Rembert (one page)
- E-Mail of 7/25/2014 from David Bray to Kimberly Gempler; Gordon Lewis; Walter Vereen; Barbara Williams (one page)

There are no charges associated with granting the request. 5 C.F.R. § 2411.13(b).

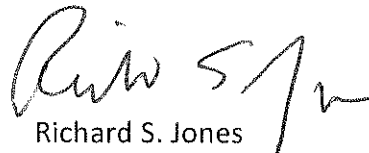
It is noted that the case files also contain affidavits, intra-office memoranda, investigative reports, and communications between the investigator and the parties individually. However,

your request is denied with respect to those documents because such documents are protected from disclosure by Exemptions 5 and 7(C) and (D) of the FOIA. Exemption 5 protects from disclosure intra-agency documents that are not available by law to a party in litigation with the agency, i.e., documents that are prepared during a pre-decisional deliberative process, and documents that represent an attorney's work product. The deliberative process privilege applies to documents that are (1) predecisional, *Mapother v. Dep't of Justice*, 3 F.3d 1533, 1537 (D.C. Cir. 1993) and (2) deliberative. *Jordan v. Dep't of Justice*, 591 F.2d 753, 774 (D.C. Cir. 1978). These types of materials are exempt under Exemptions 5 and 7(C) and (D) of the FOIA in order to assure that internal deliberations are carried out in the candid manner necessary to effective decision-making. *NLRB v. Sears, Roebuck and Co.*, 421 U.S. 132, 150 (1975). Thus, to the extent that these documents relate to deliberations, their disclosure is not required as disclosure would be destructive to the Regional Director's adjudicative responsibility and integrity.

Exemption 7(C) protects from disclosure information that is personal that has been compiled for law enforcement the disclosure of which "could reasonably be expected to constitute an unwarranted invasion of personal privacy." *McDonnell v. United States*, 4 F.3d 1227, 1255-56 (3d Cir. 1993) (*McDonnell*). Exemption 7(D) protects from disclosure records or information compiled for law enforcement purposes that could reasonably be expected to identify a confidential source. *McDonnell* at 1258.

I am responsible for this determination on your request. Under § 2411.10(a) of the Rules and Regulations of the Authority, you may obtain a review of this determination by filing a written appeal of my determination within thirty (30) days after receipt of this response. You should file the appeal with the Office of the General Counsel, 1400 K Street NW, Second Floor, Washington, D.C. 20424-0001.

Sincerely,

A handwritten signature in dark ink, appearing to read "R. S. Jones", with a stylized flourish at the end.

Richard S. Jones
Regional Director

Enclosures

cc: Richard Zorn
FOIA Officer for the General Counsel
Federal Labor Relations Authority
1400 K Street NW, Second Floor
Washington, D.C. 20424-0001



UNITED STATES OF AMERICA
FEDERAL LABOR RELATIONS AUTHORITY

South Tower – Suite 1950
225 Peachtree Street
Atlanta, GA 30303
(404) 331-5300 FAX: (404) 331-5280
www.flra.gov

February 24, 2015

Ramona Rembert, Executive Secretary
AFGE, Local 1145
601 McDonough Blvd., SE
Atlanta, GA 30315

David K. Bray
142 Fletcher Ford Road
Fayetteville, GA 30215

Re: American Federation of Government Employees,
Local 1145
and
David K. Bray, An Individual
Atlanta, Georgia
Case Nos. AT-CO-15-0278 and AT-CO-15-0279

Dear Ms. Rembert and Mr. Bray:

Enclosed are copies of the unfair labor practice charges that were filed in the above cases. The Agent assigned to investigate the charges is: **Mark D. Halverson, (404) 331-5300, ext. 5015, email address: mhalverson@flra.gov**. The Agent will be in contact with you shortly to discuss the charges. Please cooperate fully with the Agent during the investigation of the charges so that we can timely complete the investigation and make a decision.

For the Charging Party:

If you are the party who filed the charges, it is important that you promptly submit your evidence to the Agent so we may begin to investigate your charges. If you have not already done so, please submit the following to the Agent by **March 6, 2015**:

1. A list of your witnesses along with their telephone and email contact information, and a summary of their expected testimony about their personal knowledge of the charge.
2. Copies of all relevant documents, with an index if the submission is lengthy.

Section 2423.4(f) of the FLRA's Regulations requires you to provide this information. If you do not hear from the Agent within a week of submitting the information requested, or should you have any questions, please feel free to contact the Agent. We may dismiss your charges if you fail to cooperate with the Region or fail to timely submit your evidence.

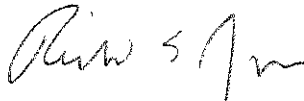
If someone other than you will be representing your party in the cases, please provide the Region with the name and contact information (including email address) of your representative.

For the Charged Party:

Please review the allegations in the charges and provide the Region in writing with your position on the allegations, along with any supporting documents. You are expected to cooperate fully in the Region's investigation, and the Agent may ask you to provide additional relevant evidence and testimony concerning the matters under investigation. Should you have any questions, please contact the Agent.

If someone other than you will be representing your party in the cases, please provide the Region with the name and contact information (including email address) of your representative.

Sincerely,



Richard S. Jones
Regional Director

Enclosed: Notice of Designation of Representative

cc: J. David Cox, National President
American Federation of Government Employees
80 F Street, N.W.
Washington, DC 20001



UNITED STATES OF AMERICA
FEDERAL LABOR RELATIONS AUTHORITY
CHARGE AGAINST A LABOR ORGANIZATION

FOR FLRA USE ONLY

Case No.

Date Filed

11-T-CO-15-0278

2/23/15

1. CHARGED LABOR ORGANIZATION

a. Name of Charged Labor Organization (include address, city, state, & ZIP)

American Federation of Government Employees, L-1145
601 McDonough Blvd, SE
Atlanta, GA 30315

b. Charged Labor Organization Representative (include name, title, address)

ROMONA REMBERT, Executive Secretary, Local-1145
601 McDonough BLVD, SE
Atlanta, GA 30315

tel. 404-635-5119

fax

e-mail

2. CHARGING PARTY

a. Name of Charging Party (include address, city, state, & ZIP)

David K. Bray, Individual
142 Fletcher Ford Rd
Fayetteville, GA 30215

b. Charging Party Representative (include name, title, address)

David K. Bray, Individual
142 Fletcher Ford Rd
Fayetteville, GA 30215

tel. 770-856-9348

fax

e-mail

dxbray@bop.gov

3. BASIS OF THE CHARGE

a. Set forth a clear and concise statement of the facts constituting the alleged unfair labor practice, including date and location of the particular acts.

On 1-5-2015 at the Union's regularly scheduled meeting I presented an issue to the Executive Secretary Ms. Rembert about the staff working here at the prison that are on Sick and Annual are not being given 2 weeks notice as required when management changes their schedules. management has consistently been giving the employees only 2 to 3 days notice of changes. I brought this issue to her attention and she told me that the issue would be addressed and corrected in accordance with policy. To this date 2-23-2015 nothing has been done to correct this issue, management is still only giving employees 2 to 3 days notice. I strongly believe that Ms. Rembert has had no interest in representing me and addressing this issue with management mainly due the simple fact that I am a Caucasian male. She has made numerous remarks in the past about "white" staff members. I feel that I should have the right to be represented and my issues be addressed just the same as any other employees and not be discriminated by her based on my race and sex.

b. Which subsection(s) of 5 U.S.C. 7116(b) and/or (c) do you believe the Labor Organization has violated?

☒ 7116(b)(1) ☐ (b)(2) ☐ (b)(3) ☐ (b)(4) ☐ (b)(5) ☐ (b)(6) ☐ (b)(7) ☐ (b)(8) ☒ 7116(c)(1) ☐ (c)(2)

c. Have you or anyone else raised this matter in any other procedure? No ☒ Yes ☐ If yes, where?

☐ Grievance Procedure ☐ Federal Mediation and Conciliation Service ☐ Federal Service Impasses Panel
☐ Equal Employment Opportunity Commission ☐ Merit Systems Protection Board ☐ Office of Special Counsel
☐ Other Administrative or Judicial Proceeding ☐ Negotiability Appeal to FLRA ☐ Other

4. DECLARATION

I DECLARE THAT I HAVE READ THIS CHARGE AND THAT THE STATEMENTS IN IT ARE TRUE TO THE BEST OF MY KNOWLEDGE AND BELIEF.
I UNDERSTAND THAT MAKING WILLFULLY FALSE STATEMENTS CAN BE PUNISHED BY FINE AND IMPRISONMENT, 18 U.S.C. 1001.
THIS CHARGE WAS SERVED ON THE PERSON IDENTIFIED IN BOX 1b BY [check all appropriate boxes]

☒ In Person ☐ 1st Class Mail ☐ Fax ☐ Commercial Delivery ☐ Certified Mail ☐ e-mail (see reverse)

David K. Bray

Type or Print Your Name

Your Signature

2-23-2015

Date



UNITED STATES OF AMERICA
FEDERAL LABOR RELATIONS AUTHORITY
CHARGE AGAINST A LABOR ORGANIZATION

FOR FLRA USE ONLY

Case No.

AT-CO-15-0279

Date Filed

2/23/15

1. CHARGED LABOR ORGANIZATION

a. Name of Charged Labor Organization (include address, city, state, & ZIP)

American Federation of Government Employees, L-1145
601 McDonough BLVD, SE
Atlanta, GA 30315

2. CHARGING PARTY

a. Name of Charging Party (include address, city, state, & ZIP)

David K. Bray, Individual
142 Fletcher Ford Rd
Fayetteville, GA 30215

b. Charged Labor Organization Representative (include name, title, address)

ROMONA REMBERT, Executive Secretary, Local-1145
601 McDonough BLVD, SE
Atlanta, GA 30315

b. Charging Party Representative (include name, title, address)

David K. Bray, Individual
142 Fletcher Ford Rd
Fayetteville, GA 30215

tel. 404-635-5119

fax

tel. 770-856-9348

fax

e-mail

e-mail

dxbray@bop.gov

3. BASIS OF THE CHARGE

Set forth a clear and concise statement of the facts constituting the alleged unfair labor practice, including date and location of the particular acts.

Some time in November of 2014, I don't remember the exact date I had contacted Ms. Rembert and made a complaint to her about the overcrowding of inmates in the Housing unit that I am assigned to work here at the Atlanta Penitentiary. I advised her that there was numerous inmates housed on the floor that I am working that are assigned to the third floor. I told her if these inmates would be moved to the floor that they are assigned it would eliminate the crowding. At this time there was 26 Empty beds on the third floor. It is the unit Counselor's responsibility to move the inmates to his floor. I waited a couple of week's and no inmates had been moved. At this point I filed a grievance by myself with no assistance from the Union over the issue of the inmates not being moved to there appropriate floors. I then started addressing the matter with any management official that I could get to listen to try and get the problem resolved. Management at some point apparently addressed the issue and I figure they told the counselor to start moving his inmates to his floor. A couple of inmates were moved due to my complaining without any help from Ms. Rembert. Several weeks later Ms. Rembert sent me a one line response and asked if my problem had been addressed, I told her only after I had filed a grievance myself did something start to happen. The problem still exist to this date and in the mean time the Union represented the counselor (Who is African American) who would not do his job and made management conduct a threat assessment on me primarily due to the fact I was complaining about the inmates being on my floor. Ms. Rembert failed to provide me any representation on this issue plainly due to the fact that I am a Caucasian Male. Then she had management conduct a threat assessment on me because I exercised my rights and brought matters of concern to management. Ms. Rembert did this because she is good friends with the Counselor who along with herself is African American and I am not.

5. Which subsection(s) of 5 U.S.C. 7116(b) and/or (c) do you believe the Labor Organization has violated?

716(b)(1) ☒ (b)(2) ☒ (b)(3) ☒ (b)(4) ☒ (b)(5) ☒ (b)(6) ☒ (b)(7) ☒ (b)(8) ☒ 7116(c)(1) ☐ (c)(2) ☐

Have you or anyone else raised this matter in any other procedure? No ☒ Yes ☐ If yes, where?

☒ Grievance Procedure ☒ Federal Mediation and Conciliation Service ☐ Federal Service Impasses Panel
☒ Equal Employment Opportunity Commission ☐ Merit Systems Protection Board ☐ Office of Special Counsel
☐ Other Administrative or Judicial Proceeding ☐ Negotiability Appeal to FLRA ☐ Other

4. DECLARATION

I DECLARE THAT I HAVE READ THIS CHARGE AND THAT THE STATEMENTS IN IT ARE TRUE TO THE BEST OF MY KNOWLEDGE AND BELIEF. I UNDERSTAND THAT MAKING WILLFULLY FALSE STATEMENTS CAN BE PUNISHED BY FINE AND IMPRISONMENT, 18 U.S.C. 1001.

THIS CHARGE WAS SERVED ON THE PERSON IDENTIFIED IN BOX 1b BY (check all appropriate boxes)

☒ In Person ☐ 1st Class Mail ☐ Fax ☐ Commercial Delivery ☐ Certified Mail ☐ e-mail (see reverse)

David K. Bray

Type or Print Your Name

Your Signature

2-23-2015

Date

FLRA Form 23 (Rev. 10/2014)

Form Exempt Under 44 U.S.C. 3512

ULP DATA ENTRY (revised March 2014)

TTTCE Local 1148
A+1, GMA

CASE NUMBER: AT-CO-15-0278 DATE FILED: 2/23/15

PROFESSIONAL ASSIGNED: (Code P1) MOH DATE: 2-23-15

PROFESSIONAL REASSIGNED: (Code P2) _____ DATE: _____

PROFESSIONAL CO-ASSIGNED: (Code P3) _____ DATE: _____

OPENING LETTER ISSUED: (Code O1) 2/24/15

INITIAL ISSUE CODE: B09.01

DISPOSITIVE ISSUE CODE: B09.12

DESCRIPTION (AN ENTRY MUST NOW BE MADE IN THIS BLOCK)

- ☐ Executive Order: Labor Relations forum activities or section 7106(b)(1)
- ☐ Raises novel or interesting issue
- ☐ Involves potentially sensitive issue
- ☐ Concerns an issue of nationwide impact that may cross Regional Office geographic or jurisdictional boundaries
- ☐ Injunction requested by charging Party
- ☒ Not Applicable

COMMENTS: (e.g., Related Case Number or any other information region would like to add)

KEY WORD CODES: (INSERT APPLICABLE CODE NUMBER IN FOLLOWING ACTION TABLE)

Example: Withdrawal Solicitation was After RD Determination: record "2" for Withdrawal Solicitation

Withdrawal Solicitation

- 1a) Prior to RD determination w/supervisory approval
- 1b) Prior to RD determination w/o supervisory approval
- 2) After RD determination
- 3) Unsolicited withdrawal

Scope

- 1) Dispositive action without the taking of formal evidence
- 2) Dispositive action prior to completion of full investigation
- 3) Dispositive action after full investigation

Cooperation (by charged party)

- 1) Full cooperation with affidavits and witnesses
- 2) Agent talked to witnesses - no affidavits
- 3) Submission of documentary evidence
- 4) Submission of statement of position
- 5) Agent talked to charged party representative
- 6) Cooperation not required

Remedy

- 1) Backpay - dollar amount _____
- 2) Make whole - dollar amount _____
- 3) Status quo ante (bargaining)
- 4) retroactive bargaining
- 5) rescission of action (non-bargaining)
- 6) other traditional remedy - FLRA posting, cease & desist order, prospective order (cases involving formal discussion, Weingarten, dues withholding, (a)(1) statement, prospective bargaining)
- 7) novel remedy (i.e. supervisory training)
- 8) other

Method

- 1) On-site affidavits and evidence
- 2) Telephone affidavits
- 3) Sworn questionnaire
- 4) Confirming letters
- 5) Unsworn questionnaire
- 6) On-site conversation
- 7) Telephone/E-mail conversation

Prosecutorial discretion

- 1) Yes
- 2) No

ACTION	DATE	ENTER KEY WORD CODE FROM LIST, CHECK, OR ENTER INFORMATION AS APPROPRIATE
ADR - No Resolution (AD1)		n/a
ADR - Partial Resolution (AD2)		n/a
ADR - Full Resolution (AD3)		n/a
Initial inquiry for injunctive relief (Code O2)		n/a
Expedited investigation for injunctive relief (Code O3)		n/a
Blocked (Code B1)		Blocked by Case No. _____
Unblocked (Code B2)		n/a
Transferred to		<input type="checkbox"/> AT (Code T1) <input type="checkbox"/> BN (Code T2) <input type="checkbox"/> CH (Code T3) <input type="checkbox"/> DA (Code T4) <input type="checkbox"/> DE (Code T5) <input type="checkbox"/> SF (Code T6) <input type="checkbox"/> WA (Code T7)
Transfer received by transferee Region (Code T8)		n/a
Withdrawal approved (Code W1)		<input type="checkbox"/> Withdrawal (Solicitation) <input type="checkbox"/> Cooperation <input type="checkbox"/> Method <input type="checkbox"/> Scope <input type="checkbox"/> Prosecutorial discretion
Withdrawal rescinded (Code W2)		n/a
Withdrawal approved - secondary disposition (withdrawal after prior action) (Code W3)		<input type="checkbox"/> Withdrawal (Solicitation) <input type="checkbox"/> Cooperation <input type="checkbox"/> Method <input type="checkbox"/> Scope <input type="checkbox"/> Prosecutorial discretion
Intervention started (Code I1)		n/a
Intervention ended (Code I2)		n/a
Advice requested (Code V1)		Injunction recommended by Region <input type="checkbox"/> Yes <input type="checkbox"/> No
Advice decided (Code V2)		Advice Memo No. _____ <input type="checkbox"/> Dismiss charge <input type="checkbox"/> Complaint <input type="checkbox"/> Further investigation <input type="checkbox"/> Telephone advice <input type="checkbox"/> GC injunction recommended to FLRA

Full dismissal (Code D1)		<input checked="" type="checkbox"/> Withdrawal (Solicitation) <input checked="" type="checkbox"/> Cooperation <input checked="" type="checkbox"/> Method <input checked="" type="checkbox"/> Scope <input checked="" type="checkbox"/> Prosecutorial discretion
Partial dismissal (Code D2)		<input type="checkbox"/> Withdrawal (Solicitation)
Full dismissal -- secondary disposition (dismissal after prior action (Code D4)		<input type="checkbox"/> Withdrawal (Solicitation) <input type="checkbox"/> Cooperation <input type="checkbox"/> Method <input type="checkbox"/> Scope <input type="checkbox"/> Prosecutorial discretion
Partial dismissal - secondary disposition (Code D5)		<input type="checkbox"/> Withdrawal (Solicitation)
ADR post-dispositive action - No Resolution (AD4)		n/a
ADR - post-dispositive action - Partial Resolution (AD5)		n/a
ADR - post-dispositive action - Full Resolution (AD6)		n/a
File sent by Dismissing Region to OGC for Appeals review (Code A21)		n/a
Appeal file received by Dismissing Region from OGC (Code A27)		n/a
Dismissal rescinded (Code D3)		n/a
Private settlement-- PSIWOC before RD merit determination (Code S1)		<input type="checkbox"/> Withdrawal (Solicitation) <input type="checkbox"/> Cooperation <input type="checkbox"/> Method <input type="checkbox"/> Scope <input type="checkbox"/> Remedy
<input type="checkbox"/> Precomplaint unilateral settlement (Code S2) <input type="checkbox"/> Precomplaint bilateral settlement (Code S3) <input type="checkbox"/> Precomplaint private settlement (Code S4) (PSIWOC after RD merit determination)		<input type="checkbox"/> Withdrawal (Solicitation) <input type="checkbox"/> Cooperation <input type="checkbox"/> Method <input type="checkbox"/> Scope <input type="checkbox"/> Remedy
<input type="checkbox"/> Postcomplaint private settlement (PSIWOC post complaint) (Code S5) <input type="checkbox"/> Postcomplaint unilateral settlement (Code S6) <input type="checkbox"/> Postcomplaint bilateral settlement (Code S7) <input type="checkbox"/> Posthearing settlement (Code S8)		<input type="checkbox"/> Remedy
Formal settlement (Code S9)		<input type="checkbox"/> Remedy
<input type="checkbox"/> Precomplaint unilateral settlement - secondary action (Code S10) <input type="checkbox"/> Precomplaint bilateral settlement - secondary action (Code S11) <input type="checkbox"/> Precomplaint private settlement - secondary action (Code S12) (PSIWOC after RD merit determination) <input type="checkbox"/> Private settlement-- PSIWOC before RD merit determination (Code S13)		<input type="checkbox"/> Withdrawal (Solicitation) <input type="checkbox"/> Cooperation <input type="checkbox"/> Method <input type="checkbox"/> Scope <input type="checkbox"/> Remedy
Stipulation filed with Authority (Code ST1)		n/a
Stipulation filed with ALJ (ST2)		n/a

Stipulation record found insufficient by ALJ (ST3)		n/a
ULP complaint - case in abeyance (Code X1)		n/a
ULP complaint or appeal - case taken out of abeyance (Code X-3)		n/a
RD Merit Determination Reached (M1)		<input type="checkbox"/> Complaint <input type="checkbox"/> Dismiss <input type="checkbox"/> Partial Complaint
Complaint issued (Code C1)* (attach a scan copy of the complaint) ULP Hearing scheduled (Code JO) Settlement Judge Request (SJR)* (attach a scan copy of the request)		<input type="checkbox"/> Cooperation <input type="checkbox"/> Method <input type="checkbox"/> Scope _____ Hearing date <input type="checkbox"/> No date *Refer to the instructions on how to attach a scanned document into QB
Complaint issued - secondary disposition (complaint issued after prior action)-(Code C3)* (attach a scan copy of the complaint) ULP Hearing scheduled (Code JO) Settlement Judge Request (SJR)* (attach a scan copy of the request)		<input type="checkbox"/> Cooperation <input type="checkbox"/> Method <input type="checkbox"/> Scope _____ Hearing date <input type="checkbox"/> No date *Refer to the instructions on how to attach a scanned document into QB
Request for Summary Judgment filed by OGC with ALJ (Code SJ1)		n/a
Request for Summary Judgment granted (Code SJ2)		<input type="checkbox"/> Remedy _____ OALJ Decision #
Motion for postponement of hearing (Code J1)		<input type="checkbox"/> GC <input type="checkbox"/> Charging Party <input type="checkbox"/> Respondent
Ruling on motion for postponement of hearing (Code J2)		_____ New hearing date <input type="checkbox"/> Indefinitely postponed
Complaint withdrawn (Code C2)		n/a
Hearing held -- (enter information on the Hearing screen using the Hearings Data Entry sheet)		n/a
ALJ decision (enter this information on the Hearing screen using the Hearing Data Entry sheet)		<input type="checkbox"/> Full violation <input type="checkbox"/> Partial violation <input type="checkbox"/> No violation
GC Exceptions filed (Code J6)		n/a
GC Opposition to exceptions filed (Code J7)		n/a
Cross-exceptions filed (Code J8)		n/a
Post-trial brief (Code J10)		n/a
No Exceptions filed (Code J11)		n/a
FLRA ULP decision (Also complete Hearings Data Entry sheet)		_____ Citation <input type="checkbox"/> Full violation (Code A1) _____ Remedy

		<input type="checkbox"/> Partial violation (Code A2) <input type="checkbox"/> Remedy <input type="checkbox"/> No violation (Code A3) <input type="checkbox"/> Remanded to ALJ (Code A4)
Federal court appeal filed (Code CT1)		Name of court
Federal court decision issued (Code CT2)		<input type="checkbox"/> Affirm <input type="checkbox"/> Reverse <input type="checkbox"/> Remand <input type="checkbox"/> Modify <input type="checkbox"/> Appeal withdrawn <input type="checkbox"/> Enforce
Compliance initiated (Code C61)		n/a
Noncompliance alleged (Code CM1)		n/a
Noncompliance action -- (Code CM2) referred to OGC for enforcement		n/a
Compliance completed (Code CM3)		n/a
Compliance not required -- Court decision no violation (Code CM4)		n/a



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FEDERAL LABOR RELATIONS AUTHORITY
225 PEACHTREE STREET N.E., SUITE 1950, ATLANTA, GA 30303
(404) 331-5300 FAX: (404) 331-5280

June 23, 2015

David K. Bray
142 Fletcher Ford Road
Fayetteville, GA 30215

Re: American Federation of Government
Employees, Local 1145
and
David K. Bray, an Individual
Atlanta, Georgia
Case Nos. AT-CO-15-0278

Dear Mr. Bray:

The FLRA Atlanta Region has investigated your charge that the American Federation of Government Employees, Local 1145 (the Union), breached the duty of fair representation in violation of Sections 7116(b)(1) and (8) of the Federal Service Labor-Management Relations Statute (the Statute) by refusing to address the issue of employees on the Sick and Annual Leave roster not receiving the two weeks' notice of schedule changes required by the Master Agreement. Because the Union's conduct was not arbitrary or capricious, and did not result in disparate or discriminatory treatment, it did not violate the Statute.¹

The investigation revealed that you raised the issue of insufficient notice of schedule changes to Sick and Annual Leave roster employees at the January 5, 2015, Union meeting even though you were not on the roster at the time. The Union told you that it would look into the matter, but it was not resolved to your satisfaction. You also inquired of management yourself, but the Agency continued to provide insufficient notice of schedule changes.

You specifically alleged that the Union failed to act on your complaint in this case due to your race. However, there is insufficient evidence for me to conclude that your race was a motivating factor for any actions or inactions on the part of the Union. While the Union did not resolve the matter to your satisfaction, there is nothing to indicate that its conduct was arbitrary or in bad faith. Moreover, the scheduling issue appears to affect only the employees on the sick and annual roster, and you were not on that roster at that time. Thus, I cannot conclude that the union's actions amounted to more than mere negligence or ineptitude, or that its conduct resulted in disparate or discriminatory treatment of you or any bargaining unit employee.²

For the above reasons, I am dismissing this charge. If you wish to appeal this decision, you must mail, hand-deliver, fax, or email, your appeal by **July 27, 2015**, to this address:

¹ *Vaca v. Sipes*, 87 S.Ct. 903, 916-17(1967); *Int'l Ass'n of Machinists and Aerospace Workers, Local 39, AFL-CIO*, 24 FLRA 352 (1986).

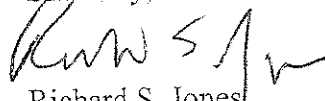
² *Nat'l Fed'n of Fed'l Employees, Local 1453*, 23 FLRA 686, 691 (1986)

Federal Labor Relations Authority
Office of the General Counsel (Attn: Appeals)
1400 K St., N.W., Second Floor
Washington, DC 20424-0001
Fax: 202-482-6608

Email: ogc.appeals@flra.gov

If you need an extension, you must send your request to the office of the General Counsel by **July 22, 2015**. To learn more about the standards for an appeal, you can visit our web page at: www.flra.gov/ogc_appeals.

Sincerely,



Richard S. Jones
Regional Director

Enclosure

cc:

Ramona Rembert, Executive Secretary
AFGE, Local 1145
601 McDonough Blvd., SE
Atlanta, GA 30315

Julia Akins Clark, General Counsel
Federal Labor Relations Authority
1400 K Street NW, 2nd Floor
Washington, DC 20424-0001

ARTICLE 18 - HOURS OF WORK

Section a. The basic workweek will consist of five (5) consecutive workdays. The standard workday will consist of eight (8) hours with an additional thirty (30) minute non-paid, duty-free lunch break. However, there are shifts and posts for which the normal workday is eight (8) consecutive hours without a non-paid, duty-free lunch break.

Employees on shifts which have a non-paid, duty-free lunch break will ordinarily be scheduled to take their break no earlier than three (3) hours and no later than five (5) hours after the start of the shift. It is the responsibility of the Employer to schedule the employee's break, taking into consideration any request of the employee. The Employer will notify the affected employee of the specific anticipated time that the employee will be relieved for his/her lunch break. Any employee entitled to a non-paid, duty-free lunch break who is either required to perform work or is not relieved during this period will be compensated in accordance with applicable laws, rules, and regulations. The Employer will take the affected employee's preference into consideration in determining the manner of compensation (i.e., overtime versus compensatory time or early departure), except in cases where compensation is at the election of the employee. Management will

not, without good reason, fail to relieve employees for a duty-free lunch break.

There will be no restraint exercised against any employee who desires to depart the institution/facility while the employee is on a non-paid, duty-free lunch break. For the purposes of accountability, the employee leaving the institution/facility will leave word with his/her supervisor.

Section b. The parties at the national level agree that requests for flexible and/or compressed work schedules may be negotiated at the local level, in accordance with 5 USC.

1. any agreement reached by the local parties will be forwarded to the Office of General Counsel in the Central Office who will coordinate a technical and legal review. A copy of this agreement will also be forwarded to the President of the Council of Prison Locals for review. These reviews will be completed within thirty (30) calendar days from the date the agreement is signed;
2. if the review at the national level reveals that the agreement is insufficient from a technical and/or legal standpoint, the Agency will provide a written response to the parties

involved, explaining the adverse impact the schedule had or would have upon the Agency. The parties at the local level may elect to renegotiate the schedule and/or exercise their statutory appeal rights; and

3. any agreement that is renegotiated will be reviewed in accordance with the procedures outlined in this section.

Section c. Every reasonable effort will be made by the Employer:

1. to ensure that all administratively controllable travel is performed in a paid duty status;
2. should an employee be required to travel outside of his/her regularly scheduled workday and/or workweek, such employee will be compensated to the extent allowable by applicable laws, rules, and regulations; and
3. to ensure that authorized travel and extensions to authorized travel will be made sufficiently in advance to ensure that the affected employee can receive advance travel funds, should the employee desire.

Section d. Quarterly rosters for Correctional Services employees will be prepared in accordance with the below-listed procedures.

1. a roster committee will be formed which will consist of representative(s) of Management and the Union. The Union will be entitled to two (2) representatives. Management will determine its number of representatives.
2. seven (7) weeks prior to the upcoming quarter, the Employer will ensure that a blank roster for the upcoming quarter will be posted in an area that is accessible to all correctional staff, for the purpose of giving those employees advance notice of assignments, days off, and shifts that are available for which they will be given the opportunity to submit their preference requests. Normally, there will be no changes to the blank roster after it is posted;
 - a. employees may submit preference requests for assignment, shift, and days off, or any combination thereof, up to the day before the roster committee meets. Those who do not submit a preference request will

- be considered to have no preference. Preference requests will be made on the Employee Preference Request form in Appendix B or in any other manner agreed to by the parties at the local level. The Employer will ensure that sufficient amounts of forms are maintained to meet the needs of the employees;
- b. employee preference requests will be signed and dated by the employee and submitted to the Captain or designee. Requests that are illegible, incomplete, or incorrect will be returned to the employee. In order to facilitate Union representation on the roster committee, the employee is also encouraged to submit a copy of this request to the local Union President or designee;
- c. if multiple preference requests are submitted by an employee, the request with the most recent date will be the only request considered; and
- d. the roster committee will consider preference requests in order of seniority and will make reasonable efforts to grant such requests. Reasonable efforts means that Management will not arbitrarily deny such requests. (Seniority is defined in Article 19).
3. the roster committee will meet and formulate the roster assignments no later than five (5) weeks prior to the effective date of the quarter change;
4. the committee's roster will be posted and accessible to all Correctional Services employees no later than the Friday following the roster committee meeting;
5. once the completed roster is posted, all Correctional Officers will have one (1) week to submit any complaints or concerns. Correctional Officers will submit their complaints or concerns in writing to the Captain or designee. The employee may also submit a copy to the local President or designee. No later than the following Wednesday, Management and the Union will meet to discuss the complaints or concerns

received, and make any adjustments as needed;

6. the roster will be forwarded to the Warden for final approval;
7. the completed roster will be posted three (3) weeks prior to the effective date of the quarter change. Copies of the roster will be given to the local President or designee at the time of posting; and
8. the Employer will make every reasonable effort, at the time of the quarter change, to ensure that no employee is required to work sixteen (16) consecutive hours against the employee's wishes.

Section e. Nothing in this article is intended to limit an employee from requesting and remaining on a preferred shift for up to one (1) year. In this regard, no employee may exceed one (1) continuous year on a particular shift, and all officers are expected to rotate through all three (3) primary shifts during a four (4) year period.

Section f. Roster committees outside the Correctional Services department will be formed to develop a roster unless mutually waived by the department head and the Union. It is recommended that the procedures in Section d. be utilized. These rosters

will be posted three (3) weeks prior to implementation. Copies will be given to the local President or designee at the time of posting.

Section g. Sick and annual relief procedures will be handled in accordance with the following:

1. when there are insufficient requests by employees for assignment to the sick and annual relief shift, the roster committee will assign employees to this shift by chronological order based upon the last quarter the employee worked the sick and annual relief shift;
2. assignment to the sick and annual roster satisfies the requirement for rotation through the three (3) primary shifts;
3. no employee will be assigned to sick and annual relief for subsequent quarters until all employees in the department have been assigned to sick and annual relief, unless an employee specifically requests subsequent assignments to sick and annual relief;
4. employees assigned to sick and annual relief will be notified at least eight (8) hours prior to any change in their shift; and

5. reasonable efforts will be made to keep sick and annual relief officers assigned within a single shift during the quarter.

Section h. Ordinarily, the minimum time off between shifts will be seven and one-half (7½) hours, and the minimum elapsed time off on "days off" will be fifty-six (56) hours, except when the employee requests the change.

Section i. Employees, while serving on federal, state, or local jury duty, shall be considered as being assigned to the day shift with Saturdays and Sundays off until the completion of such duties. The change in work schedule shall be for the weeks during which such duties are performed.

Section j. No employee will be required to stand roll calls except on duty time. Where roll calls are not used, the Employer will provide other means of alerting oncoming employees to unusual or dangerous situations of which the employees should be made aware.

Section k. If a change in a job assignment involving a change from an inside position to an outside position or vice versa is necessary, and the employee has not been properly advised in advance, and adverse weather or conditions of the assignment warrant, the employee will be given an opportunity to obtain

and change into appropriate clothing while on duty status. Other options may be explored, including the assigning of another employee to the position.

Section l. The Employer is committed to its responsibility regarding the health of all employees. Toward that end, the Employer may require that the health condition of employees requesting assignment changes for medical reasons be reviewed by the Chief Medical Officer. If employees wish, medical evidence from their private physicians may be provided to the Chief Medical Officer, who will fully consider this information before making reports to the supervisors with appropriate recommendations.

1. employees suffering from health conditions or recuperating from illnesses or injuries, and temporarily unable to perform assigned duties, may voluntarily submit written requests to their supervisors for temporary assignment to other duties. Such employees will continue to be considered for promotional opportunities for which they are otherwise qualified;
2. the Employer will continue to accommodate employees who suffer a disability in accordance

with applicable laws, rules, and regulations; and

3. employees must report any planned or anticipated requests for leave due to medical or psychiatric hospitalization, treatment, or recuperation as early as possible so that necessary staffing adjustments may be planned.

Section m. Employees may request to exchange work assignments, days off, and/or shift hours with one another. Supervisory decisions on such requests will take into account such factors as security and staffing requirements and will ensure that no overtime cost will be incurred.

Section n. The Employer agrees to consider the circumstances surrounding an employee's request against reassignment when a reassignment is necessary.

Section o. Employees shall be given at least twenty-four (24) hours notice when it is necessary to make shift changes, except for employees assigned to the sick and annual leave roster [as specified in Section g (4).], or when the requirement for prior notice would cause the vacating of a post. For the purpose of this Agreement, a shift change means a change in the starting and quitting time of more than two (2) hours. Work assignments on the same shift

may be changed without advance notice.

Section p. Specific procedures regarding overtime assignments may be negotiated locally.

1. when Management determines that it is necessary to pay overtime for positions/assignments normally filled by bargaining unit employees, qualified employees in the bargaining unit will receive first consideration for these overtime assignments, which will be distributed and rotated equitably among bargaining unit employees; and
2. overtime records, including sign-up lists, offers made by the Employer for overtime, and overtime assignments, will be monitored by the Employer and the Union to determine the effectiveness of the overtime assignment system and ensure equitable distribution of overtime assignments to members of the unit. Records will be retained by the Employer for two (2) years from the date of said record.

Section q. The Employer retains the right to order a qualified bargaining unit employee to work overtime after making a reasonable effort to obtain a

volunteer, in accordance with Section p. above.

Section r. Normally, nonprobationary employees, other than those assigned to sick and annual relief, will remain on the shift/assignment designated by the quarterly roster for the entire roster period. When circumstances require a temporary [less than five (5) working days] change of shift or assignment, the Employer will make reasonable efforts to assure that the affected employee's days off remain as designated by the roster.

Section s. Notification of shift or assignment changes for employees not assigned to sick and annual relief will be confirmed in writing and signed by the Employer, with a copy to the employee.

Section t. Ordinarily, scheduled sick and annual relief assignments will be posted at least two (2) weeks in advance.

Section u. Except as defined in Section d. of this article, the words ordinarily or reasonable efforts as used in this article shall mean: the presumption is for the procedure stated and shall not be implemented otherwise without good reason.

Vance Bryant - RE: Union Door

From: David Bray
To: Nimene, John; Scott, Oliver; Sumpter, Lashawn
Date: 1/27/2015 11:34 AM
Subject: RE: Union Door

I made the sign that is on the union office door with my own money, time, effort and materials. The local did not spend one penny on the making of the sign that is on the door. The sign is my personal property and I am asking that it be returned to me as soon as possible.

Thank you

Vance Bryant - RE: POST ABANDONMENT

From: David Bray
To: Rembert, Ramona
Date: 8/8/2014 9:52 AM
Subject: RE: POST ABANDONMENT

I apologize, I did not realize what I did, kind of like it taking you a week to address my staff safety issue in b-1 because I am WHITE, that was real professional on your part.... Once again I apologize....

>>> Ramona Rembert 8/8/2014 9:48 AM >>>

I would appreciate if you would not utilize Group Wise and the government computer to send unprofessional e-mails that make inappropriate references to other employees, particularly me. I will not tolerate your blatant, disrespectful comments.

**Ramona M. Rembert
Executive Secretary
Council Of Prison Locals
Local 1145
United States Penitentiary- Atlanta
601 McDonough Blvd
Atlanta, GA 30315
Office: 404-635-5430
Union office: 404-635-5119
rrembert@bop.gov**

"WHAT WE TOLERATE WE WILL NOT CHANGE"

>>> David Bray 8/8/2014 8:50 AM >>>

Ramona in action, what a joke, maybe I should offer to buy her a razor so that she can shave her hairy chin...LOL

Ramona Rembert - RE: BCH Inmates

From: David Bray
To: Rembert, Ramona
Date: 8/1/2014 8:11 AM
Subject: RE: BCH Inmates

No, I filed a Grievance to the Warden over the issue, thank you very much.....

>>> Ramona Rembert 7/30/2014 9:46 AM >>>

Bray,

Has your concern been addressed??? Please advise. . .RMR

>>> David Bray 7/25/2014 8:48 AM >>>

Could someone please advise the B-3 counselor to move some of his inmates to B-3 where they belong. There is 17 empty beds on B-3 and there are numerous inmates housed on B-1 that belong to B-3. I have inmates that are 3 deep in cells on B-1 and empty beds on B-3, this makes no sense. This is not the first time I have advised ya'll of this and for some reason no one came seem to make anything happen with moving inmates to B-3. If need be tell me to move them and I guarantee you I can make it happen. Either way something needs to be done about this soon. Thank you in advance for anything you can do to correct this situation.

Ramona Rembert - RE: BCH Inmates

From: David Bray
To: Gempler, Kimberly; Lewis, Gordon; Vereen, Walter; Williams, Barbara; ...
Date: 7/25/2014 8:48 AM
Subject: RE: BCH Inmates
CC: Rembert, Ramona

Could someone please advise the B-3 counselor to move some of his Inmates to B-3 where they belong. There is 17 empty beds on B-3 and there are numerous inmates housed on B-1 that belong to B-3. I have inmates that are 3 deep in cells on B-1 and empty beds on B-3, this makes no sense. This is not the first time I have advised ya'll of this and for some reason no one came seem to make anything happen with moving inmates to B-3. If need be tell me to move them and I guarantee you I can make it happen. Either way something needs to be done about this soon. Thank you in advance for anything you can do to correct this situation.